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Chief Clerk of the House

FILED FEB 20 2007

By:



H.B. No. 1699

A BILL TO BE ENTITLED

AN ACT

relating to the power of a groundwater conservation district to
regulate the use of groundwater so as to prevent waste.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 36.001(8) and (9), Water Code, are
amended to read as follows:

(8) "Waste" means any one or more of the following:

(A) withdrawal of groundwater from a groundwater
reservoir at a rate and in an amount that causes or threatens to
cause intrusion into the reservoir of water unsuitable for
agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from a
groundwater reservoir if the water produced is not used for a
beneficial purpose;

(C) the discharge, flowing, pumping, release,
or escape of groundwater from a groundwater reservoir to any other
reservoir or geologic strata that does not contain groundwater;

(D) pollution or harmful alteration of
groundwater in a groundwater reservoir by saltwater or by other
deleterious matter admitted from another stratum or from the
surface of the ground;

(E) wilfully or negligently causing, suffering,
or allowing groundwater to flow or escape or be discharged, pumped,
or released into any river, creek, natural watercourse, depression,

1 pond, lake, reservoir, drain, sewer, street, highway, road, or road
2 ditch, or onto any land other than that of the owner of the well
3 unless such discharge is authorized by permit, rule, or order
4 issued by the commission under Chapter 26;

5 (F) groundwater pumped for irrigation that
6 escapes as irrigation tailwater onto land other than that of the
7 owner of the well unless permission has been granted by the occupant
8 of the land receiving the discharge; or

9 (G) for water produced from an artesian well,
10 "waste" has the meaning assigned by Section 11.205.

11 (9) "Use for a beneficial purpose" means use for:

12 (A) agricultural, gardening, domestic, stock
13 raising, municipal, mining, manufacturing, industrial, commercial,
14 or recreational[, ~~or pleasure~~] purposes;

15 (B) exploring for, producing, handling, or
16 treating oil, gas, sulphur, or other minerals; or

17 (C) any other purpose that is useful and
18 beneficial to the user.

19 SECTION 2. Section 36.101(a), Water Code, is amended to
20 read as follows:

21 (a) A district may make and enforce rules, including rules
22 limiting groundwater production based on tract size or the spacing
23 of wells, to provide for conserving, preserving, protecting, and
24 recharging of the groundwater or of a groundwater reservoir or its
25 subdivisions in order to control subsidence, prevent degradation of
26 water quality, or prevent waste of groundwater and to carry out the
27 powers and duties provided by this chapter. A district may adopt

1 and enforce rules that define waste to include activities or uses in
2 addition to those included in the definition of waste provided by
3 Section 36.001(8). During the rulemaking process the board shall
4 consider all groundwater uses and needs and shall develop rules
5 that ~~[which]~~ are fair and impartial and that do not discriminate
6 between land that is irrigated for production and land that was
7 irrigated for production and enrolled or participating in a federal
8 conservation program. Any rule of a district that discriminates
9 between land that is irrigated for production and land that was
10 irrigated for production and enrolled or participating in a federal
11 conservation program is void.

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2007.

HOUSE COMMITTEE REPORT

1st Printing

07 MAY -6 PM 5:32

USE OF REPRESENTATIVE

By: Hilderbran

H.B. No. 1699

Substitute the following for H.B. No. 1699:

By: Puente

C.S.H.B. No. 1699

A BILL TO BE ENTITLED

AN ACT

relating to the power of a groundwater conservation district to regulate the use of groundwater.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 36.113(d), Water Code, is amended to read as follows:

(d) Before granting or denying a permit or permit amendment, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the proposed use of water is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;

(6) the applicant has agreed to avoid waste and achieve water conservation; and

(7) ~~(6)~~ the applicant has agreed that reasonable

1 diligence will be used to protect groundwater quality and that the
2 applicant will follow well plugging guidelines at the time of well
3 closure.

4 SECTION 2. Section 36.117(d), Water Code, is amended to
5 read as follows:

6 (d) Notwithstanding Subsection (b), a district may require
7 a well to be permitted by the district and to comply with all
8 district rules if:

9 (1) the withdrawals from a well exempted under
10 Subsection (b)(1) are no longer used solely for domestic use or to
11 provide water for livestock or poultry;

12 (2) the purpose of a well exempted under Subsection
13 (b)(2) is no longer solely to supply water for a rig that is
14 actively engaged in drilling or exploration operations for an oil
15 or gas well permitted by the Railroad Commission of Texas; or

16 (3) [~~(2)~~] the withdrawals from a well exempted under
17 Subsection (b)(3) are no longer necessary for mining activities or
18 are greater than the amount necessary for mining activities
19 specified in the permit issued by the Railroad Commission of Texas
20 under Chapter 134, Natural Resources Code.

21 SECTION 3. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2007.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4/27/07
(date)

Sir:

We, your **COMMITTEE ON NATURAL RESOURCES**

to whom was referred HB 1699 have had the same under consideration and beg to report back with the recommendation that it

- ☐ do pass, without amendment.
☐ do pass, with amendment(s).
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
☒ yes ☐ no A fiscal note was requested.
☐ yes ☒ no A criminal justice policy impact statement was requested.
☐ yes ☒ no An equalized educational funding impact statement was requested.
☐ yes ☒ no An actuarial analysis was requested.
☐ yes ☒ no A water development policy impact statement was requested.
☐ yes ☒ no A tax equity note was requested.
☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

| | AYE | NAY | PNV | ABSENT |
|----------------------|-----|-----|-----|--------|
| Puente, Chair | X | | | |
| Hamilton, Vice-chair | X | | | |
| Gattis, CBO | X | | | |
| Creighton | X | | | |
| Gallego | X | | | |
| Guillen | X | | | |
| Hilderbran | X | | | |
| Laubenberg | X | | | |
| O'Day | X | | | |
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Total

9 aye
0 nay
0 present, not voting
0 absent


CHAIR

BILL ANALYSIS

C.S.H.B. 1699
By: Hilderbran
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, groundwater districts are the state's preferred method of groundwater management through rules developed, adopted, and promulgated by a district in accordance with the provisions of Chapter 36 of the Water Code. Groundwater districts are encountering some landowners who are wasting the groundwater reservoir for aesthetical appeal.

The purpose of this bill is to require a permit for the proposed use of water to enhance the appearance of landscape. C.S.H.B. 1699 relates to the power of a groundwater conservation district to regulate the use of groundwater.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 36.113(d) of the Water Code by adding a new Subdivision (5) to provide the proposed use of water is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape. Subdivisions are renumbered accordingly.

SECTION 2. Amends Section 36.117(d) of the Water Code adding a new Subdivision (1) to provide that withdrawals from a well exempted under Subsection (b) (1) are no longer used solely for domestic use or to provide water for livestock or poultry. Subdivisions are renumbered accordingly.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1699 deletes the revised definitions under Section 1 and deletes the language that authorizes the district to adopt and enforce rules that define waste to include activities or uses in addition to those included in the definition of waste provided by Section 36.001 (8).

Amends Section 36.113 (d) of the Water Code adding Subdivision (5) to provide the proposed use of water is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape. Amends Section 36.117(d) of the Water Code adding Subdivision (1) to read the withdrawals from a well exempted under Subsection (b) (1) are no longer used solely for domestic use or to provide water for livestock or poultry. The bill also renumbers Subdivisions accordingly.

SUMMARY OF COMMITTEE ACTION

HB 1699

April 25, 2007 2:30 PM or upon final adjourn./recess

Considered in public hearing

Committee substitute considered in committee

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 27, 2007 upon first adjournment

Considered in formal meeting

Committee substitute considered in committee

Reported favorably as substituted

WITNESS LIST

HB 1699

HOUSE COMMITTEE REPORT

Natural Resources Committee

April 25, 2007 - 2:30 PM or upon final adjourn./recess

Registering, but not testifying:

For: Holland, WF (Kirk) (Barton Springs/Edwards Aquifer Conservation District)

- Committee Substitute (Punete)

For: Conkwright, Jim (High Plains Underground Water Conservation District No.1)

- Committee Substitute (Punete)

Registering, but not testifying:

For: Hardberger, Amy (Environmental Defense)

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 1, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1699 by Hilderbran (Relating to the power of a groundwater conservation district to regulate the use of groundwater.), Committee Report 1st House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend the Water Code to authorize a groundwater conservation district before granting or denying a permit or permit amendment to consider whether the proposed use of water is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape. The bill would also authorize a district to require a well to be permitted by the district and to comply with all district rules if the withdrawals from a well exempted under Subsection (b)(1) of Section 36.117 are no longer used solely for domestic use or to provide water for livestock or poultry.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, WK, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 18, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1699 by Hilderbran (Relating to the power of a groundwater conservation district to regulate the use of groundwater so as to prevent waste.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Water Code to authorize a groundwater conservation district to adopt and enforce rules that define waste of groundwater to include activities or uses in addition to those listed in Section 36.001(8), Water Code.

Local Government Impact

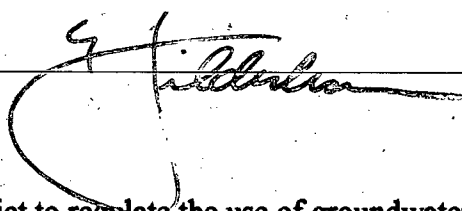
No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, WK, DB

H.B. No. 1699

A BILL TO BE ENTITLED
AN ACT

By 

relating to the power of a groundwater conservation district to regulate the use of groundwater so as to prevent waste.

FEB 20 2007

Filed with the Chief Clerk

FEB 26 2007

Read first time and referred to Committee on Natural Resources

APR 27 2007

Reported favorably (~~as amended~~)
(as substituted)

MAY 07 2007

Sent to Committee on (Calendars)
(~~Local & Consent Calendars~~)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of yeas, nays, present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(yeas, nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(yeas, nays)

Senate and Constitutional 3 Day Rules suspended by a vote of yeas, nays

Read third time, _____, and passed by a (viva voce vote)
(yeas, nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

07 MAY -6 PM 5:32

HOUSE OF REPRESENTATIVES